959.

SUPREME COURT OF THE UNITED STATES.

No. 159.

THE UNITED STATES, APPELLANTS,

vs.

JUAN PACIFICO ONTIVERAS.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in Case No. , Juan Pacifico Ontiveras, claimant, vs. *The United States, defendant—for the place named .*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this first day of November, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Juan Pacifico Ontiveras, for the place named "San Juan," was presented, and ordered to be filed and docketed with No. 440, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition, the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *November 4th*, 1852.

In case No. 440, Juan Pacifico Ontiveras, for the place named "San Juan," alias "Cajon de Santa Ana," the deposition of Abel Stearns, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with documents marked H. H., Nos. 1, 2 and 3, and translations thereof marked B, annexed thereto, was filed.

(Vide page 5 of this Transcript.)

In the same case, the deposition of Bernardo Yorba, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 7 of this Transcript.)

SAN FRANCISCO, *Aug.* 19, 1853.

Case No. 440 called; the counsel for the claimant read the evidence; argued, submitted and taken under advisement by the board.

SAN FRANCISCO, *April* 11, 1854.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board, rejecting the claim.

(Vide page 19 of this Transcript.)

SAN FRANCISCO, *August* 15, 1854.

In the same case, on motion of the United States law agent, the following order was made, to wit:

(Vide page 24 of this Transcript.)

Petition.

To the Hon. the Board of U. S. Land Commissioners, appointed to settle private land claims in California.

The petition of Juan Pacifico Ontiveras respectfully showeth: That on or about the thirteenth day of May, 1837, Juan B. Alvarado, then governor of California, in the name of the Mexican nation, by virtue of the laws then in force, the usages and customs of the country affecting grants of land in California, granted in full property unto your petitioner the tract of land and rancho known by the name of San Juan, (a) Cajon de Santa Ana, containing about square leagues of land, as described in the papers and maps relating to said grant of lands; that copies of the said papers and maps, now in the possession of your petitioner, are herewith filed as part of this petition, and as soon as copies can be procured from the archives, now in the custody of the U. S. surveyor general for California, your petitioner prays leave to file the same as part of this petition.

And your petitioner further shows, that he is informed and believes the above described grant has been approved by the departmental assembly of California, and that a record of the same is now in the archives, in the custody of the U. S. surveyor general for California; a copy of which your petitioner prays leave to file as part of this petition, as soon as the same can be obtained. And your petitioner further shows, that sometime in the year A. D. 1837, your petitioner made application by petition to the proper officer, having jurisdiction of such subject-matters, to be placed in juridical possession of said lands, and that juridical possession was duly given to your petitioner; that a part only of the papers relating to said juridical possession of your petitioner, as the balance have been lost or mislaid, and cannot be found.

And copies of all such papers as your petitioner now has in his possession are herewith filed, as part of this petition.

And your petitioner further shows, that said lands have always been in the peaceable and quiet possession of your petitioner from about the date of said grant, and are now in the quiet and undisturbed possession of your petitioner.

There is no conflicting claim to said lands known to your petitioner.

Said lands have not been surveyed by the U. S. surveyor general for California.

The evidence upon which your petitioner relies in this case are the records of this grant, papers and maps, in the custody of the U. S. surveyor general for California; original papers in the possession of your petitioner, relating to said tract of land, and the testimony of witnesses, to be produced before your honorable board.

Respectfully submitted for such action as the justice and nature of the claim may require.

E. O. CROSBY,
Of Counsel for Claimant.

Filed in office, Nov. 1st, 1852.

GEO. FISHER, *Secretary*.

Deposition of Abel Stearns.

LOS ANGELES, *November 4th*, 1852.

On this day, before Commissioner Hiland Hall, came Abel Stearns, a witness in behalf of the claimant, Juan Pacifico Ontiveras—petition No. 440—and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testifies as follows:

My name is Abel Stearns; my age fifty-four years; I reside in Los Angeles; I have lived in California over twenty-three years.

I am acquainted with the handwriting and signatures of Juan B. Alvarado and Victor Proudon. A paper is now shown me purporting to be a grant to Juan Pacifico Ontiveras of land called San Juan, dated May 13th, 1837. The names of said Alvarado and Proudon appearing on said paper I believe to be their genuine signatures. Said paper is hereto annexed, and marked H. H., No. 1.

A paper is also shown me purporting to be a testimony of the approval of the said grant by the Territorial deputation, dated May 18th, 1837. The names of the said Alvarado & Proudon to said paper I believe to be their genuine signatures. Said paper is hereto annexed, and is marked H. H., No. 2. A map is also shown me, with a certificate of Manuel Jimeno upon it, dated July 19th, 1837. The signature of said Jimeno on said map I believe to be his genuine signature.

I was employed by Patricio Ontiveras, I think, in 1835, to make a diogram of land which he was about to petition for, and the map now before me appears to be a copy of one made by me at that time. He called the land Coyotes Vegos and Rincon de Santa Ana. I am acquainted with the land, and believe the land granted on the before mentioned title-paper to be the same land described in the map, with the exception of a piece mentioned in the grant as ceded to Nieto. I suppose that when the son of Patricio applied for the land, he gave it a different name from that given by the father, and called it San Juan Cajon de Santa Ana. Said map is hereto annexed, and marked H. H., No. 3.

I think the father petitioned the governor for the land, and that before any action was taken on his petition he died, and then the son then petitioned and obtained the grant before mentioned. I am acquainted with the handwriting and signatures of Gil Ibarra, Narciso Botello, & Bernardino Lopez.

A paper is now shown me purporting to be a petition of Juan Pacifico Ontiveras, for judicial possession of said land, dated September 13th, 1837, with an order of the first alcalde referring the petition to the second alcalde, dated September 18th, 1837. The signatures of said Ibarra, Botello, and Lopez, on said paper, I believe to be genuine. The petition is in my own handwriting, and also the signature of the name of said Ontiveras. He made his mark in my presence, as now shown, as I believe said papers hereto annexed and marked H. H., No. 4.

I know the land; it is on the river Santa Ana, about ten leagues from this place, in an easterly direction. The claimant has occupied the land ever since the time it was granted to him. He had a house there the same year, and afterwards a better one. He lived on it, and has ever since resided on the land. He has had a thousand or fifteen hundred head of cattle on it, and a stock of horses.

Inquiries by the Associate Law Agent.

Do you know how this map came to be attached to the espediente of Patricio Ontiveras for a tract called Los Alamitos?

Answer. I do not.

Is the land mentioned in the grant as ceded by Nieto included in the map?

Answer. I think it is.

ABEL STEARNS.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office November 4th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Bernardo Yorba.

Los Angeles, *November* 4th, 1852.

On this day, before Comm'r Hiland Hall, came Bernardo Yorba, a witness in behalf of the claimant, Juan Pacifico Ontiveras—petition No. 440—and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name Bernardo Yorba; my age is fifty-one years, and I reside in the county of Los Angeles.

I know the Rancho San Juan Cajon de Santa Ana; it is situated about twelve leagues from this place, in a southeasterly direction. I have known it ever since I was a boy. It now belongs to Juan Pacifico Ontiveras, and formerly belonged to the mission of San Gabriel—I mean, that the mission formerly occupied the land, as they occupied nearly all the country.

Judicial possession was given of the rancho to Juan Pacifico Ontiveras by Antonio Machado, who was regidor. I cannot tell the time when it took place. It was during the time Alvarado was governor. I was present, and was one of the adjoining neighbors, and a witness to the giving of the possession.

In answer to inquiries by the associate law agent:

At the time possession was given, it was known by the name of Los Coyotes. It is now called San Juan.

BERNARDO YORBA.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Nov. 4th, 1852. GEO. FISHER, *Sec'y.*

El ciudadano Juan Bautista Alvarado, Gobernador del estado y presidente de la ex'ma diputacion del mismo.

Por cuanto el ciudadano Juan Pacifico Ontiveras ha pretendido, para su beneficio personal, y el de su familia, el terreno conocido con el nombre de San Juan, (a) Cajon de Santa Ana, con el inclusion del pedaso de tiera, sedido por D. Juan T. Nieto, dentro de los linderos del diceño q'l acompaño á su solicitud, practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por las leyes, y reglamentos de la materia, usando de las facultades q'l me son conferidas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras entendiendose dicho concesion con entera conformidad á las leyes a reserva de la aprobacion ó desaprobacion de la excellentisima diputacion, y bajo las condiciones siguientes:

1. El agraciado ni sus herederos podran dividir, ni enagenar el que se les adjudica imponerle censo vinculo, fianza ó hipoteca, ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos muertos.

2. Podra cercarlo sin perjudicar las travesias caminas, y servidumbres lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo q'l mas le acomode.

3. Cuando se le conceda la propiedad, solicitara del juez respectivo le dé la posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos y pondran las mojoneras.

4a. El terreno de q'l se hace donacion es puramente el que se espresa en la solicitud del interesado y se demarca en el diseño, y el juez q'l lo pocecione pasará aviso á este gobierno del numero de sitios q'l comprehende.

En consecuencia mando que serviendole de titulo el presente y teniendose por firme, y valedero se tome razon en el libro respectivo y se entregue al interesado para su resguardo y demas fines convenientes.

Dado en la ex-mision de Santa Barbara, Mayo 13 de 1837.

JUAN B. ALVARADO.

VICTOR PROUDON, *S'rio Int'o.*

Filed in office Nov. 4, 1852. GEO. FISHER, *Sec'y.*

Santa Barbara, Mayo 18, de 1837.

En sesion de hoy aprobó la ex'ma diputacion eregida en congreso, constituyente el dictamen de la comision de la mismo, que á la letra es como segue.

Se conceda a Don Juan Pacifico Ontiveras, el paraje nombrado San Juan el cajon de Santa Ana, con incluir del pedazo de tierra cedida por Don Juan Nieto, y el ojo de agua q'l en d'ha parage esta sin impedir que sus corrientes sean las q'l siempre habido en ecepcion del tiempo que la necesite que en sus labores.

Santa Barbara, 14 de Mayo, de 1837.

JOSE R. ES'TRADA,
FRANCISCO B. ALVARADO,
JUAN B. ALVARADO.
VICTOR PRUDHON,
S'rio Int'o.

Filed in office Nov. 4, 1852.

GEO. FISHER, *S. I.*

Manuel Jimeno Casarin, primer vocal proprietario de la ex'ma junta del departam'to de las Californias, y en ejercicio del gobierno del mismo.

En la secretaria de este gobierno conste un espediente, perteneciente á Don Patricio Ontiveras, sobre el parage nombrado los alamitos y corre agregado un diceño igual á la copia que se demuestra la á la vuelta.

Monterey, Julio 19, de 1839.

MANUEL JIMENO.

Filed in office Nov. 4th, 1852.

GEO. FISHER, *Sec'y.*

S'or Alcalde 1 Constitucional:

El C. Juan Pacifico Ontiveras, de esta ciudad, ante V. segun haya lugar y el derecho le conceda espone lo siguiente: Habiendo conseguido por decreto del gobierno superior del territorio con fecha 13 de Mayo, de mil ultimo, el adjunto titulo del titulo como en ella se espone, y para que puedo cumplir con lo que demandé lo ley en asegurarme la propiedad como corresponde.

A V. suplico se sirva darme la posecion juridica segun otro decreto, dignandose admiter este en papel comun por no haver del sello q. corresponde.

Jurando no ser de malicia y lo necessario, Ang's, 13 de Sep'bre, de 1837, no se firmar y pongo la señal de la cruz.

JUAN PACIFICO ONTIVERAS.

Angeles, Sep'bre 18, de 1837.

Por presentado y admitido con cuanto ha lugar ocurro el interesado al s'or alcalde 2o de esta ciudad, pr. no prometer á este de mi cargo las condiciones por el hacer como solicita. Asi yo Gil Ibarra, alcalde 1o

constitucional de esta referida ciudad, lo probo y mandé y firmé, por ante mi y los de asistencia.

GIL IBARRO.

Ass'a: NARCISO BOTELLO,
Ass'a: BERNARDINO LOPEZ.

Filed in office, Nov. 4th, 1852.

GEO. FISHER, *Sec'y.*

[*For map see original, page* 13.]

Exhibit B.—Translation Grant and Poss.—440.

The citizen Juan Bautista Alvarado, governor of the State and president of the most excellent the deputation of the same.

Whereas, the citizen Juan Pacifico Ontiveras has claimed, for his personal benefit and that of his family, the tract of land known by the name of San Juan, (a) Cajon de Santa Ana, including the piece of land assigned by Don Juan J. Nieto, within the boundaries of the plan subjoined to his petition, the proceedings in that behalf having first been taken according to the tenor of the laws and regulations affecting the matter, in the exercise of the powers conferred upon me in the name of the Mexican nation, I do now grant unto him the aforesaid tract, declaring unto him the ownership thereof by the present letters, said grant being understood to be in entire conformity with the terms under reservation of the approval or disapproval of the most excellent the deputation, and under the following conditions:

1st. The party in interest shall not, nor shall his heirs, have power to divide nor alien the tract now adjudicated to them, to burthen it with rent charge, entail, bond, mortgage nor other incumbrance, even for a religious cause, nor to reduce it to mortmain.

2d. He may enclose it without prejudice to the cross-roads, highways and rights of way; he shall enjoy it freely and exclusively, devoting it to the cultivation and uses that may suit him.

3d. When the ownership be conceded to him he shall solicit the competent magistrate to give him juridical possession by virtue of this patent; such magistrate shall assign his boundaries, and the grantee shall place his lardmarks.

4th. The tract hereby granted is merely what is expressed in the petition of the party in interest, and is marked in the plan, and the judge who delivers possession shall inform this government of the number of sitios it contains.

measurement or possession, is clearly incomplete. No aid is therefore to be derived from that source in identifying the land or fixing its boundaries. The next reference is to the plan subjoined to the petition. The map filed in the case purports to be from an espediente formed upon an application made by a different party, and for land known by a different name from that now claimed. An effort is made to account for and reconcile this discrepancy by the evidence of Abel Stearns, who says he was employed by Patricio Ontiveras in 1835, as he thinks, to make a diagram of land for which he was about to petition, and the map filed in the case appeared to be a copy of the one made by him at that time. He called the land Coyotes Viejos and Rincon the Santa Ana. He further states that he is acquainted with the land, and believes the land granted in the before mentioned title-paper to be the same described in the map, with the exception of a piece mentioned in the grant, as ceded by Nieto.

He supposes that when the son Patricio applied for the land he gave *is* a different name from that given by the father, and called it San Juan Cajon de Santa Ana.

He thinks the father petitioned the governor for the land, and that before any action was taken on his petition he died, and that the son then petitioned and obtained the grant before mentioned. This evidence is clearly too vague and indifferent to connect the map filed in this case with the present claim, as a copy of that referred to in the grant to the claimant. But even if that fact was fully established, it is not perceived that it would, in any material degree, aid in ascertaining the location and boundaries of the land; the grant only refers to the map as descriptive of the country within which the location was to be made, and directs the judge, after he shall have located and measured the land as described in the petition, to inform the government of the quantity it contained, admitting then that the map filed is a copy of that referred to in the grant; it is very clear that it was not the intention of the government to grant all the land contained within its boundaries.

The grant expressly declares, that the land is to be laid off within those boundaries, and until that was done, there would, in the absence of all other description, *to* no segregation of the particular tract intended to be granted. The scale of varas laid down on the map shows the quantities contained within its limits to be some thirteen or fourteen square leagues, a quantity beyond which the governor was authorized, under any circumstances, to grant according to the laws of colonization, and proving conclusively that the grant was for a smaller quantity within those bounds; until that quantity is ascertained, or some mode by which it can be ascertained and its location established is furnished, there is nothing definite or certain upon which a decree of confirmation could operate.

Bernardo Yorba testifies that juridical possession was given, and that he was present as one of the adjoining neighbors, and was a witness to giving of the possession.

No record, however, of that act has been put in evidence, and in

order to avail the party any thing in the establishment of his claim its absence ought to be accounted for, and proof of the boundaries then fixed, or other evidence of its contents, introduced.

Upon the evidence as now presented before the commission the grant is void for uncertainty, and the claim must therefore be rejected.

Filed in office, April 11th, 1854.

GEO. FISHER, *Secretary*.

Decree.

JUAN PACIFICO ONTIVERAS
vs.
THE UNITED STATES. } Case No. 440.

San Juan, (a) Cajon de Santa Ana.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, April 11th, 1854.

GEORGE FISHER, *Secretary*.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty-four pages, numbered from 1 to 24, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 440 on the docket of the said board, wherein Juan Pacifico Ontiveras is the claimant against the United States, for the place known by the name of San Juan.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirtieth day of October, A. D. 1854, and of the independence of the United States of America the seventy-ninth. GEO. FISHER, *Sec'y*.

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.
CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States

for the southern district of California, hereby certify the foregoing twenty-four pages, numbered from 1 to 24, both inclusive, to contain a full, true, and correct copy of transcript, in case No. 140, filed in my office, wherein Juan Pacifico Ontiveras is the appellant, and the United States are the appellees, for the place named "San Juan, al. Cajon de Santa Ana."

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, Califor-
[SEAL.] nia, this 8th day of May, A. D. 1856, and of the independence of the United States of America the eighteenth.

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'ty*.

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

Be it remembered, that on the eighth day of November, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: A duly certified transcript of the record of the proceedings and decision of the board of U. S. land commissioners to ascertain and settle the private land claims in the State of California, and of the documentary evidence and testimony of witnesses upon which said decision was founded, in the case wherein Juan Pacifico Ontiveras is the claimant against the United States, for the place named "San Juan, al. Cajon de Santa Ana," was received, and filed, and docketed with No. 140 on the docket of said court, and is in the words and figures following, to wit:

(Vide page 1.)

Upon which the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *April* 24, 1854.

Notice of appeal filed by appellant's attorney.

(Vide page 3.)

LOS ANGELES, *Feb'y* 17, 1855.

Notice of appeal filed by appellant.

(Vide page 5.)

LOS ANGELES, *M'ch 4th*, 1855.

Petition for review filed by appellant.

(Vide page 5.)

LOS ANGELES, *April* 9, 1855.

Order to take further testimony filed.

(Vide page 9.)

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Los Angeles, *April* 27, 1855.

Answer filed by U. S. dist. att'y.

(Vide page 9.)

Los Angeles, *Oct.* 6, 1855.

Affidavit of Juan Pacifico Ontiveras filed.

(Vide page 14.)

Los Angeles, *Oct.* 6*th*, 1855.

Deposition of Augustus Landenberger filed.

(Vide page 15.)

Los Angeles, *Oct.* 6*th*, 1855.

Deposition of Manuel Duarte filed.

(Vide page 18.)

Los Angeles, *Oct.* 6*th*, 1855.

Deposition of Geo. Hanson filed.

(Vide page 25.)

Los Angeles, *Oct.* 9*th*, 1855.

Deposition of Bernardino Gurado filed.

(Vide page 26.)

Los Angeles, *Oct.* 9*th*, 1855.

Document "C. E. C.," U. S. com'r, attached to deposition of Bernardino Guirado, with translation of same.

(Vide pages 30 & 31.)

Los Angeles, *Oct.* 12*th*, 1855.

Notice of hearing filed.

(Vide page 32.)

Los Angeles, *Oct.* 17*th*, 1855.

Deposition of Bernard'o Yorba filed.

(Vide page 32.)

Los Angeles, *Oct.* 17*th*, 1855.

Deposition of Antonio Machado filed.

(Vide page 37.)

Los Angeles, *Oct.* 18*th*, 1855.

Bill of exceptions filed by U. S. dist. att'y.

(Vide page 40.)

Los Angeles, *Dec.* 3*d*, 1855.

Affidavit of claimant filed.

(Vide page 43.)

LOS ANGELES, *Dec'r 6th*, 1855.

Affidavit of John W. Shore filed.

(Vide page 44.)

LOS ANGELES, *Dec. 6th*, 1855.

Affidavit of J. R. Scott filed.

(Vide page 45.)

LOS ANGELES, *Dec. 3d*, 1855.

Affidavit of J. Lancaster Brent filed.

(Vide page 46.)

LOS ANGELES, *Jan'y 29th*, 1856.

Decree of the court filed.

(Vide page 47.)

LOS ANGELES, *M'ch 7th*, 1856.

Appeal from the decision of the U. S. dist. court to Supreme Court of the U. S. filed.

(Vide page 49.)

CLERK'S OFFICE OF THE DISTRICT COURT OF THE UNITED STATES
For the southern district of California.

Whereas, the commissioners constituted for the purpose of ascertaining and settling private land claims in the State of California, by the act of Congress of the U. S. of America, approved on the 3d of March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," did, on the 10th day of April, eighteen hundred fifty-four, by their decision of that date, decide against the claim presented by the undersigned to the said commissioners, which claim is for land lying in the said southern district, and is number four hundred and forty (440) on the docket of claims before said board; and the said claimant being desirous that the said district court should review the said decision, now hereby files this notice, in the said clerk's office, of his intention to prosecute an appeal, as is provided by the 12th section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1853, and for other purposes," which said act was approved on the 31st of August, 1852.

JUAN PACIFICO ONTIVERAS,
By E. O. CROSBY, *of Counsel.*

TO THE CLERK OF THE U. S. DISTRICT COURT,
For the southern district of California.

18th of April, 1854.

Filed, April 22nd, 1854.

A. G. TAYLOR, *Cl'k.*

JUAN PACIFICO ONTIVERAS
advs.
THE UNITED STATES. } No. 440.

Notice of Appeal.

The U. S. district attorney for the southern district of California will please take notice, that the above-named plaintiff intends prosecuting the appeal already on file in the U. S. district court for the southern district of California, in the above entitled cause, from the decisions and judgment of the U. S. land com. for ascertaining and settling private land claims in California.

L. GRANGER,
Att'y for Plaintiff.

Los Angeles, Feb'y 17th, 1855.
Filed, February 17th, 1855.

C. E. CARR, *Clerk.*

Petition.

In the United States District Court of the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellee. } Land Commission, No. 440. Docket, No. 140.

Claim for the "Rancho de San Juan," (a) "Cajon de Santa Ana."

To the Honorable I. S. K. Ogier, District Judge of the Court aforesaid:

The petition of Juan Pacifico Ontiveras, the above named appellant and plaintiff in this case, shows to your honor, that on the 13th day of May, A. D. 1837, Juan B. Alvarado, then constitutional and acting governor of Upper California, and duly authorized as such to grant the land hereinafter mentioned, situate in the county of Los Angeles, State of California, and in the southern district of California, called the rancho of San Juan, (a) Cajon de Santa Ana, containing about seven (7) square leagues, a little more or less, granted by his deed of that date to this plaintiff the lands aforesaid.

That on the 18th day of May, A. D. 1837, said grant was duly approved by the departmental assembly of Upper California.

That about the month of September, A. D. 1837—but at what particular period plaintiff cannot state—said land was duly admeasured, and judicial possession thereof given to plaintiff, by the local judicial authorities of Los Angeles, as required by law.

And plaintiff states that he claims to be the owner in fee simple of said land by virtue of the aforesaid grant, as he states; that he has ever since the date thereof been in the peaceable possession and occupation of the same, and has done, performed and fulfilled all the conditions that by law he was bound to do, perform and fulfil to perfect his title

to said land, and particularly according to an act of the Congress of the United States, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, 1851.

And your petitioner further states, that on the 1st day of November, A. D. 1852, he filed his petition before the United States land commissioners to ascertain and settle the private land claims in California, setting forth a derangment of his title to said lands, and praying a confirmation thereof; and that after the filing of said petition before the commissioners aforesaid, plaintiff filed as evidence in support of said petition, the following described documentary evidence and depositions, to wit:

On the 4th day of November, A. D. 1852, the grant from Juan R. Alvarado to your petitioner, dated May 13th, A. D. 1837.

On the 4th day of November, A. D. 1852, the approval of the grant of said land to plaintiff by the territorial deputation, dated May 18th, A. D. 1837.

On the 4th day of November, A. D. 1852, a map of said land, with certificate of Manuel Jimeno, dated July 9th, 1837.

On the 4th day of November, A. D. 1852, the petition of the plaintiff to the 1st alcalde of the district wherein said land was situate, for judicial possession thereof to plaintiff, dated September 13th, A. D. 1837, together with order of the said 1st alcalde, referring said petition to the 2d alcalde, dated September 18th, A. D. 1837.

On the 4th day of November, A. D. 1852, the deposition of Abel Stearns, dated November 4th, A. D. 1852.

And on the 4th day of November, A. D. 1852, the deposition of Bernardo Yorba, dated November 4th, A. D. 1852.

And your petitioner further states, that on the 19th day of August, A. D. 1853, the said cause was argued, on the part of the plaintiff and on the part of the United States, before said commissioners, and submitted to them for their decision upon the petition, documentary evidence, and depositions aforesaid.

And that on the 11th day of April, A. D. 1854, the said commissioners made their final decision and decree, rejecting the claim of the plaintiff to the lands aforesaid.

And the plaintiff states, that certified copies of his petition, and the documentary evidence and depositions used by him in support thereof before said commissioners, and the submission of said case to said commissioners, together with the final decision and decree of said commissioners rejecting said claim, are now on file in the office of the clerk of this court, to which plaintiff refers, as a part of this petition.

Therefore, plaintiff would pray this honorable court to review the decision of the said commissioners, and to decide on the validity of such claim of your petitioner to the lands aforesaid; and your petitioner would ask for such other and further relief as by equity and good conscience he is entitled to, and particularly by a law of the Congress of the United States, entitled "An act to ascertain and settle the private land claims in

the State of California," approved March 3d, 1851, and your petitioner, as in duty bound, will ever pray, etc.

J. R. SCOTT,
Attorney for Petitioner.

Filed March 4th, 1855.

C. E. CARR, *Clerk.*

Order to take further Testimony.

In the United States District Court of the southern district of California.

JUAN P. ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellee. } No. 140.

Claim for Rancho of "San Juan."

And now, on the day of , A. D. 1855, the parties appear in court, the appellant appearing by J. R. Scott, his attorney, and the appellee appearing by P. Ord, United States district attorney of the southern district of California; and by consent of parties it is ordered that either party may take such further testimony as they shall wish in the above entitled cause.

Filed April 9th, 1855.

C. E. CARR, *Cl'k.*

Answer.

In the District Court of the United States for the southern district of California—Los Angeles, Los Angeles county, California.

Honorable Isaac S. K. Ogier, Judge.

JUAN PACIFICO ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellee. } No. 140. (No. of Transcript, 440.)

Answer of Appellee.

The answer of Pacificus Ord, attorney of the United States for the southern district of California, in behalf of the United States, to the petition for review of Juan Pacifico Ontiveras in the above entitled cause, (filed March 4th, 1855,) denies, generally, all and singular, each and every allegation in the said petition contained; and he denies, specially, "that on the 13th day of May, A. D. 1837, Juan B. Alvarado, then constitutional acting governor of Upper California, and duly authorized, as such, to grant the land hereinafter mentioned, situate in the county of Los Angeles, State of California, and in the southern district of California, called the rancho of San Juan,(a) Cajon de Santa Ana, containing about seven (7) square leagues, a little more or less, granted, by his deed of that date, to this plaintiff, the lands aforesaid. That on the 18th day of May, A. D. 1837, said grant was duly approved by the departmental assembly of Upper California. That about the month of September, A. D. 1837, but at what particular period

plaintiff cannot say, said land was duly admeasured, and judicial possession thereof given to plaintiff by the local judicial authorities of Los Angeles, as required by law,"—as alleged in said petition of said plaintiff.

And the said respondent further denies, specially, "that he" (meaning the said plaintiff) "is the owner in fee simple of said land, and that he has, ever since the date thereof," (meaning the said alleged grant of said Juan B. Alvarado,) "been in the peaceable possession and occupation of the same, and has done, and performed, and fulfilled all the conditions that by law he was bound to do, perform and fulfil, to perfect his title to said land," as alleged in said petition.

And the said attorney of the United States, in pursuance of the provisions of the act of Congress of the United States, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, 1851, herein fully and distinctly sets forth the grounds on which the said claim of said Juan Pacifico Ontiveras, plaintiff, is invalid, to wit:

I. That the said alleged grant of land to plaintiff by said Juan B. Alvarado, dated the 13th day of May, A. D. 1837, was made in violation of the 4th article of the Colonization law of Mexico of the 18th of August, A. D. 1824, in this: That the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast. And there is no evidence shown by said claimant, that the supreme general executive power of Mexico previously approved of the colonization of the public lands of Upper California lying within ten leagues of the sea-coast. And it is denied that the previous consent of said supreme general executive power of Mexico in such case was ever had.

II. That at the date of the said alleged grant the said land was occupied by, or in the possession of, the missions of Upper California, and particularly by the mission of San Gabriel.

III. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the said law of Mexico of the 18th of August, 1824, and the regulations for the colonization of the Territories of Mexico of the date of the 21st of November, 1828.

IV. That there is no evidence that the said land claimed as aforesaid was vacant, unoccupied, and subject to grant or colonization as public land at the date of the said alleged grant. And it is denied that it was vacant and unoccupied public land subject to grant or colonization at the date of the said alleged grant.

V. That the said claimant failed to show his original petition to the authorities of California soliciting said land, (if he ever presented such, which is not admitted;) that the said petition and accompanying map (if they ever existed) are essential parts of the said alleged grant of said Juan B. Alvarado.

VI. That there is no time designated in the said alleged grant within which the said alleged grantee should be obliged to occupy or cultivate the said land; and there is no condition expressed in said alleged grant that upon a failure to occupy or cultivate the said land by said alleged

grantee within a designated time, that the grant should remain void, as required by the 11th article of the regulations of Mexico of the 21st of November, 1828.

VII. That the said alleged grant of said Juan B. Alvarado is not executed upon the lawful stamped paper, and no reason is assigned therein for its being written upon common paper.

VIII. That the said alleged grant of said Juan B. Alvarado contains no description of the locality, extent, and boundaries of the land pretended to have been granted, by which it can be identified and surveyed. And the said alleged grant is vague, indefinite, and void for uncertainty.

IX. That there is no evidence that the copy of a map shown by claimants before the land commissioners is a part of the said alleged original grant of Juan B. Alvarado. And the said copy of a map shown by said claimant as aforesaid does not belong to or form part of the said alleged grant of land to said plaintiff by said Juan B. Alvarado.

X. That the document shown by claimant before said land commissioners, purporting to be a testimonial of the approbation by the territorial deputation of California of said alleged grant, is not *extended* upon lawful stamped paper, and no reason is assigned therein for its being written upon common paper.

XI. That there is no sufficient evidence that the conditions of the said alleged grant, and the requirements of the law, were duly performed and fulfilled by said claimant.

XII. That the said claimant shows no definitively valid grant or title for said land.

XIII. That there is no sufficient evidence that the said claimant ever asked for and received the judicial possession of said land claimed as aforesaid.

XIV. That there is no evidence that the said land claimed as aforesaid was ever lawfully segregated from the public lands of Mexico.

And the said claimant having no valid right or title derived from the Spanish or Mexican government to the land claimed by him as aforesaid, the lawful right or title in and to the said land alleged to have been granted by said Juan B. Alvarado to said plaintiff as aforesaid was acquired by, and it now belongs to, the said United States, by virtue of the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, dated at the city of Guadalupe Hidalgo, February 2d, A. D. 1848 Wherefore, the premises considered, the said attorney, respondent in behalf of the United States, prays that the said petitioner, Juan Pacifico Ontiveras, may be served with a copy of this answer; and that, after due proceedings had, this hon'ble court will decide the said claim of said petitioner for the said land to be invalid, and to decree costs against him, and for general relief.

P. ORD, (*of Monterey County,*)
Att'y of the United States for the southern dist. of California.

Filed April 27th, 1855. C. E. CARR, *Cl'k.*

Affidavit of Juan Pacifico Ontiveras.

JUAN PACIFICO ONTIVERAS, applt., vs. THE UNITED STATES, appellee. } No. 140.

Juan Pacifico Ontiveras being duly sworn deposes and says, that he is the appellant in the above entitled cause; that the papers and espediente relating to the judicial possession of the ranch of San Juan Cajon de Santa Ana now in question were delivered to him by Antonio Machado, the then acting alcalde, who gave him judicial possession of said rancho immediately after said possession was given; that shortly after, one Leandre was about commencing a suit against affiant for a piece of land, and that affiant went up to Monterey, taking with him all the papers concerning the judicial possession, and whilst there all the papers concerning judicial posession were lost, and he has never been able to find them since. This took place about two years after judicial possession was given. That for many years he made investigations in every place where there was any expectation of finding said papers, but could never find any trace of the same, nor does he now know what has become of them, as they were missing whilst *a* Monterey out of his possession without his knowledge, nor could he ever account for their absence; and therefore affiant states, that he has them not to produce to this honorable court for the reasons aforesaid.

his
JUAN PACIFICO ⋈ ONTIVERAS.
mark

Sworn to and subscribed before me, this 6th day of October, A. D. 1855.

C. E. CARR,
U. S. Com'r.

Filed Oct. 6, 1855. C. E. CARR, *Clerk.*

Deposition of Aug. Langenberger.

JUAN PACIFICO ONTIVERAS, applt., vs. THE UNITED STATES, appellees. } No. 140.

Deposition of Augustus Langenberger, a witness for applt., taken before me, C. E. Carr, U. S. com'r south. dist. of Cal., at Los Angeles, this 6th day of Oct., A. D. 1855. Augustus Langenberger being by me first duly sworn to questions propounded by J. R. Scott, counsel for applt., and P. Ord, U. S. att'y, answers as follows:

1 Ques. What is your name, age, and place of residence?

Ans. Augustus Langenberger; my age 31 years; residence county of Los Angeles.

2 Ques. What relation do you bear to Juan Pacifico Ontiveras, the claimant in this case?

Ans. Juan Pacifico Ontiveras is my father-in-law.

3 Ques. How long have you resided on the ranch?

Ans. Nearly six years.

970

4 Ques. Do you read and write the Spanish language?

I do.

5 Ques. Who has had charge of the papers of Juan P. Ontiveras?

Ans. I have had charge of all his papers.

6 Ques. State whether or not you have ever found among his papers any paper relating to the judicial possession of the ranch on which he resides?

Ans. I have never known of the paper concerning judicial possession.

7 Ques. What have you always understood from him, or the balance of the family, what had become of the papers from the time you first went there?

Objected to by U. S. atty.

Ans. I have always heard it said that he had had the papers relating to the judicial possession, but that they were lost in the year 1839, at the time Juan P. Ontiveras went up to Monterey.

Cross-examined by U. S. Attorney.

Ques. How long have you been in California?

Ans. Since the year 1847.

Ques. How long have you been married to the daughter of Ontiveras?

Ans. Since the month of February, 1850.

Ques. How long have you lived on the rancho claimed by Ontiveras?

Ans. Ever since February, 1850.

Ques. Do you live there now?

Ans. I do, with my family.

Ques. Have you a separate dwelling-house from that of your father-in-law on the rancho?

Ans. Yes; I have.

Ques. Have you stock on the rancho, and land in cultivation?

Ans. I have stock—no land in cultivation.

Ques. How far is your house from that of your father-in-law?

Ans. From six to seven hundred yards.

Ques. Who built your house?

Ans. I built it myself, two years ago.

Ques. Did you build it for yourself?

Ans. Yes.

Ques. Do you pay any rent to your father-in-law?

Ans. I do not. I pay county taxes for my stock and house.

Re-examined.

Ques. Have you any written title to any part of the land on which your house stands?

Ans. I have not.

(Sgd.) AUGUSTUS LANGENBERGER.

Sworn to and subscribed before me, this 6th day of Oct., 1855.

C. E. CARR, *U. S. Com'r.*

Filed October 6th, 1855. C. E. CARR, *Clerk.*

Deposition of Manuel Duarte.

JUAN PACIFICO ONTIVERAS, applt., vs. THE UNITED STATES, app'ee. } No. 140.

Deposition of Manuel Duarte, a witness for appellant, taken before me, C. E. Carr, U. S. Com'r for the southern district of California, on this 6th day of October, 1853, to be read in evidence on the trial of said cause. Present, P. Ord, U. S. att'y, J. R. Scott, att'y for appellant; Wm. J. Dryden sworn as interpreter. Manuel Duarte, being duly sworn, to questions propounded by counsel, answers as follows:

1 Ques. What is your name, age, and place of residence?

Ans. My name is Manuel Duarte; about 60 years of age, and I reside in San Gabriel, county of Los Angeles.

2 Ques. Do you know the ranch called San Juan de Cajon de Sant Ana? If so, how long have you known the same, and where is the same situated?

Ans. I do; I have known it about 20 years; it is in the county of Los Angeles, in an easterly direction from the town of Los Angeles, distant from it about 8 or 9 leagues.

3 Ques. Do you know the boundaries of said rancho? If so, how do you know them? (Question objected to by U. S. att'y.)

Ans. Yes, I know them, because I measured them; and this was the first time this ranch was founded.

4 Ques. Describe those boundaries? (Objected to by U. S. att'y, on the ground that it is secondary evidence.)

Ans. Beginning at the River Santana, and running out on to the hills where there is an oak, and near the valley of the Elders, and which line is contiguous to the property of Bernardo Yorba; from the oak to a stone, which is permanent, and another one resting upon it; from the stone to the pillar, which is now fallen from the pillar, to the sycamore tree, from the sycamore to the lake, and from there to the river.

5th Ques. Do you know of judicial possession having ever been given of this rancho?

Ans. Yes; I do.

6th Ques. State when the same was given, who was the alcalde that gave the same, what witnesses were present, whether or not said land was measured at the time; and if so, describe the metes and bounds by which they measured the same. (Objected to by the U. S. att'y.)

Ans. It was given when Antonio Machado was alcalde, and Narciso Botello was secretary; I think Alvarado was governor at the time. Bernardo Yorba and the deceased Tomas Yorba were witnesses. I was also there myself. Antonio Machado was the alcalde who gave the possession; Narciso Botello was the secretary with the alcalde. The land was measured, at the time it was measured, from the River Santana up, adjoining Bernardo Yorba, out to the oak, from the oak to

the stone, from the stone to the pillar, from thence to the sycamore, from thence to the lake, and from thence to the river.

7th Ques. Are you personally acquainted with Juan Pacifico Ontiveras? if so, how long, and what relation do you bear toward him?

Ans. I know him personally; I have known him about 40 years; we are brothers in-law.

8 Quest. Do you know anything about his having had papers of judicial possession of said ranch given to him? if so, state any knowledge you may have of what became of those papers.

Ans. I do not know what became of them; I only saw them when they were delivered to him.

9 Ques. State anything you have heard, many years back, about their being lost. (Objected to by the U. S. attorney.)

Ans. I never heard of their being lost.

10 Ques. How long have you known this rancho before judicial possession was given?

Ans. It *is* has been about 40 years since I have known this rancho.

11th Ques. State any name or names said ranch was commonly called by before giving the judicial possession.

Ans. A little portion of it was called Aguajita, which adjoins the Coyotes, and where the old road goes to San Diego, and which part is actually of the *Coyotes;* also, they called it the Cajon de Santa Ana.

12th Ques. By what name was the ranch generally known in this country, at and before the time juridical possession was given?

Ans. It was known first as Cajon de Santa Ana; and when Juan Pacifico came to establish himself there, *it to the name of* it then took the name of San Juan.

13 Ques. Who had resided on this place previous to the giving of judicial possession, and how long had they resided there?

Ans. No person lived upon this ranch.

13 Ques. Where did the claimant, Juan Pacifico Ontiveras, live at the time?

Ans. He lived on the rancho of Santa Gertrudes.

14 Ques. When did he move on the ranch?

Ans. It was about the time a certain general came here, who conceded the ranch to him provisionally, and told him judicial possession would be given to him afterwards.

15 Ques. How long has the present claimant lived on said rancho?

Ans. About 20 years, a little more or less.

16 Ques. How long after judicial possession was given him did he move on to it?

Ans. He was already there when judicial possession was given him.

17 Ques. How did you intend to be understood when you said no one lived there when the judicial possession was given?

Ans. I wished to be understood that no one lived on the ranch but Juan Pacifico; afterwards Bernardo Yorba settled above.

18 Ques. State in what manner the ranch has been occupied by Juan Pacifico Ontiveras since he received the judicial possession.

Ans. He has occupied it with his stock, agriculture, and three houses; he put upon it, at the start, 200 head of cattle; he had about 30 gentle horses, and two droves of mares.

19 Ques. State whether or not you have lately pointed out the lines of this ranch to any person? if so, to whom, when, who was present, and for what purpose? (Objected to by U. S. Att'y.)

Ans. I have. I showed them to the surveyor, who is now present here in court. (Here the witness pointed to Mr. Hanson, dep. county surveyor of Los Angeles.) This was the last week; I think I was present, Agusto, and two sons of Juan P. Ontiveras. Don Bernardo arrived after we had measured the place. I was requested to show the surveyor the lines of this ranch.

20 Ques. State what lines you pointed to the surveyor, and whether or not they were the same lines that were run at the time judicial possession was given. (Objected to by U. S. att'y.)

Ans. They were the same, as I have above stated, from the river to the Eucina; the same that were measured when judicial possession was given.

Cross-examined by U. S. Attorney.

Ques. Who was your mother?

Ans. Gertrudas Moreno, a daughter of one of the original settlers of Los Angeles. She was a Mexican.

Ques. Do you recollect the name of that general you say came here and conceded the ranch provisionally to Ontiveras?

Ans. I cannot remember; it was the one who had a brother living here. I now think it was General Figueroa, the one to whom the Nietos loaned the rancho Alamitos.

Ans. Has any person or persons spoken to you lately about this rancho, and about your evidence that you were to give in this case? If yea, who were they, and what did they say to you in relation to the matter, and where did the conversations take place?

Ans. The surveyor only told me they wanted me to go to the rancho, but they not even tell me what it was about till we got there. No person has told me what evidence I ought to give in this cause.

Ques. Did not your brother-in-law, the claimant, talk with you about what you should say to the surveyor before or at the time the survey was made?

Ans. No.

(P. Ord, the United States attorney, present at the taking of the foregoing deposition, reserved all legal objections to the same, and objected at the time particularly to all the questions and answers relating to the boundaries of land claimed, on the ground that it was secondary evidence, and not admissible.)

Quest. Do you know what part of the land claimed, if any, belonged to the old rancho of Santa Gertrudes? If yea, state what part.

Ans. Yes, all that part of the rancho lying south of the old road to San Diego.

Quest. Is the house of Juan Pacifico Ontiveras to the north or to the south of the old road leading to San Diego?

Ans. It is to the south.

Re-examination in chief resumed.

Quest. Where did Juan Pacifico Ontiveras live at the time judicial possession; to the north or south of the old road?

Ans. He lived in the old house on the south side.

Quest. Where does he live now?

Ans. He now lives on the bank of the Santa, on the side of the old road.

Quest. How long has he lived where he now lives?

Ans. I do not exactly remember; perhaps about 14 years.

Quest. How long was it after judicial possession was given that he moved to the other side of the road?

Ans. About six or seven years.

Quest. What was the reason of his moving over?

Ans. I think because the Italian, Leander, was about to bring suit against him?

Quest. Who occupied the place before Juan Pacifico?

Ans. First by the mission, and then by Juan Pacifico.

Cross-examination resumed.

Quest. Is Antonio Machado alive; if yea, where does he live?

Ans. Yes; he lives near the Palos Verdes, in the county of Los Angeles.

Quest. Is Francisco Botello alive; if so, where does he live?

Ans. I think he does, and lives here in the city of Los Angeles.

Quest. Did not the father of Juan Pacifico Ontiveras live in the old house south of the old road to San Diego, on the land claimed, up to the time of his death?

Ans. No; the father of Juan Pacifico lived here, on the Santa Gertrudes.

Quest. Was he not mayordomo of that ranch before and about the time of his death?

Ans. I never knew that he was mayordomo of that ranch; I think Juan Pacifico was once mayordomo of that ranch, for account of the Nietos, but did not see him.

Quest. Was he not mayordomo at the time General Figueroa first came to California?

Ans. I do not

Quest. What was the name of the Italian who threatened to bring suit against Juan Pacifico?

Ans. I always knew him by the name of the Italian; he lived on the place called Cañada de la Brea, or the ranch of Los Coyotes.

Quest. Did the Italian claim the land where Juan Pacifico then lived, and was that the reason that Juan Pacifico afterwards moved to the north of the old road?

Ans. Yes.

Re-examination.

Quest. How far did the Italian claim?

Ans. He put his stake in Cienega himself. He claimed the place where Pacifico formerly had his house, south of the old road.

Quest. How far from the old road was the house that Juan Pacifico lived in at the time judicial possession was given?

Ans. Near two miles, or one mile; a little more than a mile.

his
MANUEL ⋈ DUARTE.
mark.

Sworn and subscribed before me, this 6th day of Oct., 1855.

C. E. CARR, *U. S. Com'r.*

Filed October 6th, 1855.

C. E. CARR, *Cl'k.*

(*For map see original, page* 48.)

Boundary Lines.

Stat.	Bearings.	Chains.	Links.
1	N. 5¼° W.	453	10
2	N. 77¼° W.	351	00
3	S. 19⅛° W.	195	63
4	S. 27⅛° W.	414	26
5	S. 46⅛° E.	413	33
6	S. 54½° E.	72	50
7	N. 30¼° E.	3	30
8	N. 54¼° E.	15	00
9	N. 52½° E.	51	50
10	N. 15½° E.	33	50
11	N. 22½° E.	17	00
12	N. 16¼° E.	28	00
13	N. 10¾° E.	28	00
14	N. 67¼° E.	20	00
15	N. 62½° E.	26	00
16	N. 49¼° E.	15	00
17	N. 3¾° E.	6	50
18	N. 17¼° E.	10	00

00
00

Stat.	Bearings.	Chains.	Links.
19	N. 12¾° E.	23	00
20	N. 14¾° E.	13	00
21	N. 33¼° E.	2	00
22	N. 26¼° E.	7	56
23	N. 42¾° E.	9	50
24	N. 27¾° E.	5	00
25	S. 89¾° E.	8	50
26	N. 51¼° E.	4	00
27	N. 22¾° E.	4	00
28	N. 61¼° E.	7	50
29	N. 15¼° E.	7	50
30	N. 34¼° E.	7	00
31	N. 38¼° E.	7	00
32	N. 42¾° E.	11	00
33	N. 38¾° E.	8	50
34	N. 19¾° W.	13	00
35	N. 22¼° E.	9	00
36	N. 30¼° E.	10	00
37	N. 54¾° E.	18	50
38	N. 67¾° E.	10	00
39	S. 77¾° E.	10	00
40	S. 89¼° E	8	00
41	N. 77¾° E.	8	00
42	N. 75¼° E.	29	40
43	N. 5¼° W.	17	00

I hereby certify the above to be a correct plot of the boundaries of the Rancho San Juan Cajon de Sn. Ana, surveyed by me in the month of September, 1855, and then pointed out by Don Manuel Duarte and Don Bernardo Yorba, as the same lines which they run when judicial possession was given by the alcalde, Don Antonio Machado.

GEO. HANSON,

Deputy County Surveyor of Los Angeles county.

Los Angeles City, September 5th, 1855.

"C. E. C., U. S. Com'er, No. 1."

JUAN PACIFICO ONTIVERAS, app'lt,
vs.
THE UNITED STATES, app'ee.
} No. 140.

Deposition of George Hanson, a witness for appellant, taken before me, C. E. Carr, U. S. com'r for the south dis't of Cal., at my office, this 6th day of Oct., A. D. 1855. Present J. R. Scott, counsel for app'lt, P. Ord att'y of the U. S.

Said Hanson being by me duly sworn, to questions of counsel for the several parties, answers as follows:

1st quest. What is your name, age, and place of residence?

Ans. My name is George Hanson; age 32 years; residence Los Angeles; occupation deputy county surveyor of Los Angeles.

2d quest. Do you know the rancho called the "Cajon de San Juan de Santa Ana."

Ans. I do.

3d quest. Have you ever made a survey of said rancho; if so, when, at whose instance? Who pointed out the lines to you, by which you surveyed the same? Did you not make a map of said rancho; if yea, produce the same; state generally the result of said survey, the amount of land contained in the area surveyed by you; by what boundaries you surveyed the same, and state generally all you know about the matter. (Objected to by U. S. att'y.)

Ans. I did make a survey of said rancho, in the latter part of Sept. 1855, at the instance of Juan Pacifico Ontiveras and his attorney, Judge Scott. The lines were pointed out by Manuel Duarte, and by Bernardo Yorba, as those which were run when judicial possession was given. I made a map of the same; (witness here produces a map which is marked "C. E. C., U. S. com., No. 1;" said map is plotted on a scale of 40 chains to the inch.) The map I have been shown is a correct map of the lines which I have run, and which were pointed out to me as follows: Manuel Duarte pointed out a sycamore near the river Santa Ana, with some hatchet cuts on it; we measured then, under the guidance of Manuel Duarte, from station No. 1 to station No. 7, as laid down in the map; and then under the guidance of Bernardo Yorba, along what he called the old bed of the river to station 19, where we struck the river; we followed, from this station, the meanderings of the river, up to a point where a right line from the oak to the sycamore before mentioned strikes the river. The area embraced within these lines is six square leagues, two thousand eight hundred and sixty-seven and fifty-seven hundredth acres. (Answer objected to by U. S. att'y.)

Cross-examined by U. S. Att'y.

Quest. How much of this rancho is susceptible of irrigation?

Ans. About five hundred acres; one-third of the rancho is low enough to be irrigated, but there is not water sufficient to irrigate more than five hundred acres.

GEORGE HANSON.

Sworn to and subscribed before me, this 6th day of Oct., A. D. 1855.

C. E. CARR,
U. S. Com'r.

Filed Oct. 6th, 1855.

C. E. CARR, *Cl'k.*

Deposition of Bernardino Guirado.

JUAN PACIFICO ONTIVERAS, app'lt,
vs.
THE UNITED STATES, app'lee. } No. 140.

Deposition of Bernardino Guirado, a witness for appellant, taken before me, Charles E. Carr, U. S. com'r for the southern district of California, at my office in Los Angeles, this 9th day of Octo., 1855, to be read in evidence on the trial of this case. Wm. G. Dryden was sworn as interpreter. Present J. R. Scott, counsel for app'lt.; P. Ord, U S. att'y.

Bernardino Guirado being by me first duly sworn, to questions propounded by counsel for the several parties, answers as follows:

Quest. What is your name, age, and place of residence?

Ans. My name is Bernardino Guirado; my age 52 years; I reside in Los Angeles, and have resided in the same 21 years.

Quest. Do you know Juan Pacifico Ontiveras?

Ans. I do.

Quest. State anything you know concerning the said Juan Pacifico Ontiveras having had in his possession the papers and espediente of the judicial possession given to him by Antonio Machado, alcalde of Los Angeles, of the rancho of San Juan Cajon de Santa Ana; also state any knowledge you may have, of what became of those papers and the loss of the same, and state your means of knowledge fully.

Ans. I have had in my possession all the papers of judicial possession of said ranch. Juan Pacifico lost those papers when he went up north to defend a suit brought against him by Leandro. I know this because I defended the case of Juan Pacifico, and I enclosed the said papers with other papers, for him to carry to Monterey.

Quest. By whom were those papers executed?

Ans. Those papers were signed by Antonio Machado.

Quest. What office did Antonio Machado hold at the date of those papers?

Ans. He was regidor—acting as alcalde in the absence of the 1st alcalde.

Quest. In what year were the papers lost?

Ans. It was in 1840 or 1841.

Quest. Do you know the rancho called San Juan Cajon de Santa Ana; if so, how long have you known it?

Ans. I do; I have known the same 21 years, the time I have been in California.

Quest. Previous to the year 1837, what was that place called?

Ans. The first place where Pacifico built his house was called Los Coyotes. It was a little watering-place; but thereafter, when Nieto gave to the place called La Cañada de la Brea the name of Coyotes, then Pacifico, to distinguish it, called it San Juan Cajon de Santa Ana.

Quest. What year did this place take that name?

Ans. In the years 1837, 1838, or 1839, when they gave Juan Pacifico his title.

Cross-examined by U. S. Atty.

Quest. How do you know that Juan Pacifico lost these papers of judicial possession?

Ans. Juan Pacifico told me so; for he did not bring back the papers, saying he left them with Jimeno, and that Jimeno promised to send them to Tapia, in the city of Los Angeles, where Pacifico applied for them; but there was no trace of them.

Quest. Is this all you know about the loss of these papers?

Ans. This is all I know about the loss of these papers.

Quest. What was the name of the Italian with whom Pacifico had the lawsuit you have spoken of?

Ans. Juan Bautiste Leandro.

Quest. Is he now living?

Ans. No; he died on the Coyote rancho, county of Los Angeles.

Quest. How long was it after Juan Pacifico went to Monterey that Leandro died?

Ans. I think Leander has been dead about ten or eleven years.

Quest. In what part of the rancho of the Coyotes was he living at the time of his death?

Ans. In the house now belonging to Cota, at the place called Cañada de la Brea.

Quest. How far is that house from the old house of Juan Pacifico Ontiveras?

Ans. Very near; about one mile.

Quest. Did Leandro leave any heirs?

Ans. No, he did not; he left nothing but a widow.

Quest. Is the widow now alive; if so, where is she?

Ans. Yes, she resides on the Coyote rancho.

Re-examined by Counsel for Claimant.

Quest. Where did the line run dividing the Coyotes from San Juan Cajon de Santa Ana?

Ans. The line, after the settlement of the suit with Leandro, was at the point of the Cienega where Romio has a house, and a little below there is a sycamore; from this sycomore to a laguna, in an easterly direction, and the line finally goes on to the river Santa Ana.

Quest. Do you know the ranches that bounded this place called San Juan Cajon de Santa Ana, at the time possession was given?

Ans. I do; they were on the east at the mouth of the Cajon Don Bernado Yorbas. It is divided from Santana by the river Santana; on the north, the rancho of Gil Ybarra; on the south, by the rancho that was José Antonio Yorba's; and on the west, the rancho of Coyotes.

Quest. Who has occupied the tract within those bounds, and how long?

Ans. Juan Pacifico Ontiveras. I know that he has occupied it 21 years.

Quest. Are you acquainted with José Maria Alvarado, Antonio

Machado, Narcisso Botello, and Juan C. Vegar; and if so, whether you have frequently seen them write, and whether you know their handwriting?

Ans. I do; I know them all. I know the handwriting of Narcisso Botello, but not the others.

Quest. Look upon the paper here presented, marked "C. E. C., U. S. Com'r," and state whether the signature of the said Narcisso Botello, where it appears upon said document, is his genuine signature. (Here the paper was shown to witness.)

Ans. The foregoing order in said document is in the handwriting of Narcisso Botello, and his signature to the same is genuine.

Quest. What office did Narcisso Botello hold at the date of said paper?

Ans. He was the secretary of the ayuntamiento.

Quest. What has become of Manuel Jimeno; is he living or dead?

Ans. They say he is dead; but I don't know.

Quest. Did you ever make any search for the papers relating to the judicial possession of this rancho; if so, where and when?

Ans. No, I did not.

Quest. What do you know about the papers just shown you; who has had it?

Ans. I have had this paper in my possession, in a box of old papers, without knowing that I had it, and last night was the first time that I saw it.

Cross-examination resumed.

Quest. Do you know how and when this paper, marked "C. E. C., U. S. Com'r," came into your possession?

Ans. I hardly know how it came into my possession. I think it must have been about the time of the lawsuit that Ontiveras gave it to me, after he had received it from the alcalde; and, as I had a box of old papers, after my sister had died, I carried it out from this place to my rancho in this box, in which I was in the habit of throwing old papers; and, when the question came up about the judicial possession of Juan Pacifico, I thought I would look and see if there was any note or memorandum of the same in this box, and only found the one alluded to.

Quest. Was this paper part of the original papers of the judicial possession of which you have spoken?

Ans. This is the petition made by Juan Pacifico to the alcalde, asking the judicial possession. It is not a part of the papers of judicial possession. This is a separate paper, and is concluded by the decree of the judge upon it.

Quest. Was the judicial possession given before or after the date of the decree or order in this paper?

It was after the date of the decree; I think in the month of November or December. I know it was cold weather.

(P. Ord, U. S. district attorney, at the time of taking the foregoing deposition, reserved all legal objections to the same,) and particularly objected to all questions and answers relating to the boundaries of the land claimed, the statements of the claimant, and the contents of papers not produced.)

BERNARDINO GUIRADO.

Sworn to and subscribed before me, this 9th day of October, 1855.

C. E. CARR, *U. S. Com'r.*

Filed October 9, 1855.

C. E. CARR, *Cl'k.*

Document "C. E. C., U. S. Com'r," attached to Deposition of Bernardino Guirado.

S'or Alcalde 1o. en turno.

Juan Pacifico Ontiveras, natural de este departamento, ante V. digo, que habiendose espidide á mi favor el titulo de propiedad que devidam'te, presento adjunto á este escrito del parage demarcardo en el diseño que tambien, acompaño para mas inteligencia de V. ocurro á la autoridad de V.

Suplicandole se sirva darme la posecion con los requisitos que la ley previene, devolviendome este, y documentos adjuntos originales, con testimonio de las actuaciones, que estoz pronto a pagar las consta, que se originen, serviendose, V. admitir este en papel comun por no haber del sellado que corresponde.

Angeles, Julio 31, de 1839.

Arruego De DON JUAN PACIFICO ONTIVERAS,
JOSE M'A ALVARADO.

ANGELES, *Julio* 31, *del* 1839.

Por presentado y admitida en cuanto ha lugar, parese por mi el presente juez en turno, y testigos de asst'a al rancho del C. Juan Pacifico Ontiveras, y procedan a darle la posecion que solicita. Antonio Machado, regidor de cano y fungianda pr. ansencia del S'or alcalde 1o, asi lo provez, mande y firmé, con los de mi asst'a, en esto papel comun pr. no haber del sellado respectivo.

ANTONIO MACHADO.

Ass'a: NARCISSO BOTELLO,
Ass'a: JUAN C. VEGAR.

Filed October 9, 1855.

C. E CARR, *Cl'k.*

Translation of Document annexed to Deposition of Bernardino Guirado.

In the United States District Court in and for the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant, vs. THE UNITED STATES, appellees. } Case No. 140—Transcript 440.—"San Juan."

Translation of Document annexed to the Deposition of Bernardino Guirado.

Señor First Alcalde in rotation.

I, Juan Pacifico Ontiveras, native of this department, before your honor, say, that the title of ownership having been issued in my favor, which I properly present attached hereto, of the tract marked out in the map which I also present herewith, for the better information of your honor: I apply to the authority of your honor, petitioning that you will be pleased to give me possession with the requisite forms which the law provides, returning to me this and the annexed original documents, with a testimonial of the proceedings; that I am ready to pay the fees which may arise.

Your honor being pleased to admit this on common paper, for want of stamped of the proper denomination.

Angeles, July 31st, 1839.

At request of Don Juan Pacifico Ontiveras.

JOSE M'A ALVARADO.

ANGELES, *July* 31*st*, 1839.

For presented and admitted as far as there is place.

Let me, the present judge in rotation, and the assisting witnesses pass to the rancho of citizen Juan Pacifico Ontiveras, and proceed to give him the possession for which he petitions.

Antonio Machado, senior regidor, and acting in the absence of the senior 1st alcalde, so provided, ordered and signed with the assisting witnesses on this common paper, there being none of the proper stamped.

ANTONIO MACHADO.

Assisting witnesses:
NARCISSO BOTELLO,
JUAN C. VEGAR.

Filed, Oct'r 9th, 1855.

C. E. CARR, *Cl'k.*

Notice of Hearing.

In the District Court of the United States for the southern district of California.

JUAN PACIFICO ONTIVERAS vs. THE UNITED STATES. } No. 140—Transcript No. 440.

To Juan Pacifico Ontiveras, or his Attorney:

Take notice that the above entitled cause will be brought to a hearing by the United States, on Friday, the 19th day of October, 1855, or as soon thereafter as the same can be heard by the court.

P. ORD, *U. S. Dist. Att'y.*

Los Angeles, October 12th, 1855.

Filed, Oct'r 12th, 1855.

C. E. CARR, *Cl'k,*
By J. W. ROSS, *Dep'ty.*

Deposition of Bernardo Yorba.

JUAN PACIFICO ONTIVERAS, applt., vs. THE UNITED STATES, appellee. } No. 140.

Deposition of Bernardo Yorba, a witness on the part of appellant, taken before me, Chas. E. Carr, U. S. com'r for the southern district of the State of California, at the city of Los Angeles, this 13th day of October, 1855, to be read in evidence on the trial of this cause. Present, J. R. Scott, att'y for app'lt.

P. ORD, *U. S. Att'y.*

Wm. G. Dryden sworn as interpreter.

Bernardo Yorba, being sworn, answers as follows:

Quest. What is your name, age, and place of residence?

Ans. My name is Bernardo Yorba; my age is fifty-four; my residence, rancho of San Antonio, Cajon de Santa Ana, county of Los Angeles.

Ques. Do you know Juan Pacifico Ontiveras; if so, how long have you known him?

Ans. Yes, I do. I have known him from his early youth.

Quest. Do you know the rancho San Juan, al. Cajon de Rio de Santa Ana?

Ans. No. It is called Coyotes and Cajon de Santana, but after Pacifico went there it took the name of San Juan.

Quest. How long has Pacifico Ontiveras lived upon that rancho?

Ans. Before judicial possession was given to him, when I went there as a witness, he was living on that part called the Coyotes.

Quest. State, more or less, as near as you can, how long he was living there before judicial possession was given.

Ans. I cannot say; in the first place he lived at the rancho of the Nietos; afterwards he went to live at the Coyotes, but how long that was before judicial possession was given him I cannot tell.

Quest. At the time judicial possession was given him, had he stock on said rancho? If so, how much and of what kind?

Ans. He had stock at that time, the number I cannot tell; he had both cattle and horses.

Quest. State whether or not you ever assisted in giving judicial possession of this rancho; if so, to whom, and who was present?

Ans. Yes; I was a witness when the possession was given to Juan Pacifico Ontiveras; and there were present the deceased Tomas Yorba, he and myself were witnesses to that act; also the deceased Francisco Alvarado, and Manuel Duarte, Antonio Machado and Narcisso Botello; also the party interested, Juan Pacifico Ontiveras, was there.

Quest. State by what ranchos this rancho was bounded. (Objected to by U. S. att'y.)

Ans. The Coyotes, Santa Ana, San Antonio, my rancho, and the hills of the Puente. The river of Santa Ana is a boundary.

Quest. State what place is called the Cajon de Santa Ana; state where it commences and where it leaves off. (Objected to by U. S. att'y.)

Ans. I understand that from the old road that goes to San Diego all above towards my rancho is called by the name of Cajon de Santa Ana; but that old road is not now travelled.

Quest. What is the river called where it passes this land?

Ans. It is called the River Santa Ana; what is called the Cajon de Santa Ana is from the old road upwards; the land of Pacifico Ontiveras is called Coyotes and Cajon de Santa Ana.

Quest. How large a portion of the land is called the Coyotes?

Ans. I cannot say, the whole having been measured together, but it is that part south of the old road.

Quest. When did this rancho first take its name of San Juan de Cajon de Santa Ana?

Ans. As I have told you before, when he went there it took the name of San Juan, al. Cajon de Santa Ana; as I have already told you, he was there before possession was given; before that time it was called Coyotes and Cajon de Santa Ana.

Quest. State what ranches, if any, that bound this ranch were occupied previous to the occupation by Juan Pacifico, before the judicial possession was given.

Ans. They were all occupied; that called the Puente was also occupied. I forgot to mention in my previous answer that the Paredes is also a boundary of the land of Juan Pacifico, and that was also occupied.

Quest. State by whom each was occupied at the time judicial possession was given.

Ans. The Coyotes was occupied by the deceased Juan José Nieto;

Las Paredes by the deceased Catarina Ruiz and my deceased brother; San Antonio by myself; Santana by the Yorbas; and La Puente, I don't remember whether it was occupied by the mission or Don Juan Roland.

Quest. Can you now state the boundaries by which judicial possession of said rancho was given? If so, state them. (Objected to by the U. S. att'y.)

Ans. Yes, I can: From the old road straight to a sycamore; from the sycamore to a lake; from the lake all along up the bed where the river once ran to some sycamores, where the residence of Juan Pacifico now is; from there along the valley of La Brea to the top or ridge of the hill; and from thence along the foot of the Puente hills to where a road goes through a gap to the Puente, and from this gap to the point of beginning.

Quest. Have you pointed out the lines to any one lately? If so, to whom? (Objected to by U. S. att'y.)

Ans. Yes; I have shown a part or portion of them, first to a gentleman who went to my *a* house, and then, afterwards, a part of them to a surveyor.

Quest. When did you show them to the surveyor, and who was that surveyor? (Objected to by U. S. att'y.)

Ans. I am not certain, but I think it was last month; whom I only know by sight.

Quest. Have you ever shown them to more than one surveyor? (Objected to by U. S. att'y.)

Ans. Only to one surveyor, and that a part of the lines.

Quest. What part of the lines did you show that surveyor?

Ans. I only showed him the line from the laguna, as they had made an error in the direction towards Santa Ana.

Quest. State who has occupied that from the judicial possession up to the present time?

Ans. Juan Pacifico Ontiveras.

Quest. In what manner has he occupied?

Ans. With a house, stock, and vineyard.

Cross-examined by U. S. Att'y.

Quest. Do you know the ranchos called Santa Gertrudes, Coyotes, Balsas, Alamitas, and Cerritos; if so, how long have you known them?

Ans. I do, and have known the same from my earliest infancy.

Quest. Who occupied those ranchos you have mentioned when you first knew them?

Ans. When I first knew them there were wild animals on the places; and I was given to understand that the heirs of the deceased Nieto occupied them, and afterwards I understood there was a partition among these heirs.

Quest. What was the name of the places Los Coyotes, Santa Gertrudes, Los Balsas, Los Alamitos, de Los Cerritos, before the partition among the heirs?

Ans. It was called the rancho of the Nietos. These *was* places always had their names.

Quest. Do you know the boundaries including these places which you say was the rancho of the Nietos?

Ans. I don't know.

Quest. Do you know any one of the lines of the old rancho called rancho de los Nietos?

Ans. I don't know any one of the lines of the old rancho called rancho de los Nietos.

Quest. Who occupied the rancho of the Coyotes at the time judicial possession was given, as you have stated, to Juan Pacifico Ontiveras?

Ans. The deceased Juan José Nieto.

Quest. Was he living at that time?

Ans. Yes, he was living; and on the day judicial possession was given he was present at one of the points the road, and went no farther than the sycamore; also having with him his authorized agent Roudau, who said to Juan Pacifico, that up or north of the line from the road to the sycamore is yours, and that on the south, or down, is mine.

Quest. How far is the place called the Alamitos from the rancho of Los Coyotes, and in what direction does it lie from that rancho?

Ans. Perhaps five or six leagues on the sea-coast.

Quest. At the time of the judicial possession which you have mentioned, did you go with the alcalde to the different points which you say were established as boundaries?

Ans. I did.

Quest. Do you recollect whether or not the alcalde made the measurements according to papers; and if yea, state what kind or description of papers they were.

Ans. I saw them plant the compass, and set something down on paper, and when I came here to the juzgada I signed it.

Quest. Had the alcalde at that time any title-papers by which he was governed in making the measurement?

Ans. Yes; I recollect he read the title when he went to give the judicial possession.

Quest. Had the alcalde any paper other than the title which you say was read?

Ans. No other that I saw.

Quest. About how many leagues does the ranch of Juan Pacifico, which you have described, contain?

Ans. I don't remember; the time has been so long I don't remember; I think that it will exceed five leagues.

Quest. How far is it about from the line on the south to the line on the northern extremity?

Ans. A little over three leagues, I think.

BERNADO YORBA.

Sworn and subscribed before me, this 17th day of Oct., A. D. 1855.

C. E. CARR, *U. S. Com'r.*

Filed October 17th, 1855.

C. E. CARR, *Clerk.*

Deposition of Antonio Machado.

JUAN PACIFICO ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellees.
} No. 140.

Deposition of Antonio Machado, a witness on the part of appellant, taken before me, Chas. E. Carr, U. S. Commissioner for the southern district of California, at Los Angeles, Octo. the 17th, 1855, to be read in evidence on the trial of this cause. Present, J. R. Scott, att'y for applt.; P. Ord, U. S. att'y. Wm. G. Dryden was sworn as interpreter.

Antonio Machado being duly sworn, to questions propounded by counsel for the several parties, upon his oath, answers as follows:

Quest. What is your name, age and place of residence?

Ans. My name is Antonio Machado; my age is sixty-six; I reside in the county of Los Angeles.

Quest. Do you know Juan Pacifico Ontiveras; and if so, how long have you known him?

Ans. I know him; I have known him ever since he was born.

Quest. Do you know the rancho called San Juan de Cajon de Santa Ana?

Ans. I do.

Quest. Who occupies that rancho?

Ans. Juan Pacifico Ontiveras.

Quest. How long has he resided there?

Ans. Since the year 1839, when judicial possession was given to him, up to the present time.

Quest. In what manner has he occupied it?

Ans. He has occupied it with many cattle, horses, with a house, living therein, and also cultivating portions thereof.

Quest. Did you ever give judicial possession of this rancho; if so, to whom, who was present, and in what capacity did you act?

Ans. Yes, I gave judicial possession of this rancho to Juan Pacifico Ontiveras, in 1839, by order of the government. Bernado Yorba and Tomas Yorba, now deceased, also Manuel Duarte, Francisco Alizalde, and Narcisso Botello went from the alcalde's office, was the secretary on the occasion, went with me, and who set down the measures, were present. I acted in the capacity of alcalde of Los Angeles.

Quest. Did you make out papers at the time judicial possession was given; if so, to whom did you deliver them?

Ans. No; myself and the witnesses came to the prefect and made our report, and he drew up the act of judicial possession and gave it to Juan Pacifico Ontiveras; the prefect was Tiburcio Tapia.

Quest. Where did Tapia reside at that time, and is he living or dead; if dead, where did he die?

Ans. He lived here in the city of Los Angeles; he is now dead; he lived three or four years after that act.

Quest. By what name was this land known here at the time you gave judicial possession of it?

Ans. A small part of it was known by the name of the Coyotes, and the other al. Cayon del Rio de Santa Ana.

Quest. Can you describe the different ranchos by which this rancho San Juan de Cayon de Santa Ana was bounded at the time you gave the judicial possession; if so, describe them?

Ans. Yes, I can; the Coyotes on one side; on the upper side Bernardo Yorba; on the other the river of Santa Ana.

Quest. Look at the paper marked "C. E. Ca., U. S. Com'r," annexed to the deposition of Bernardino Guirado, in this case, and state whether your signature, where it appears in said paper, is your genuine signature?

Ans. Yes; it is my signature.

Cross-examined by U. S. Att'y.

Quest. Were you 1st or 2nd alcalde at the time you gave judicial possession of this land?

Ans. I was first alcalde.

Quest. Who was the 2nd alcalde at the time?

Ans. Manuel Dominguez was 2nd alcalde, and remained in the office under charge, while I went to give the judicial possession of the land.

Quest. How many days were you engaged there in giving the judicial possession of the land?

Ans. I am not very certain, but I know we were there four or five days.

Quest. Did you measure the land?

Ans. Yes, we did; and that is the reason we were so long carrying the rope around the land.

Quest. How long after you returned from giving the possession, was the act of possession written out and executed?

Ans. I don't know. I wrote out the act of judicial possession on the ground; I delivered to the prefect when I returned, and I don't know when he delivered it to the party.

Quest. Do you know that he ever delivered it to him at all?

Ans. I don't know it of my own knowledge, but the prefect told me, immediately after, that he had delivered it to the party. (Latter part of this answer objected to by U. S. att'y.)

Quest. What did you call this place, and what name did it go by before and at the time you gave the judicial possession?

Ans. We called it Coyotes and Santa Ana.

Quest. Was it called Coyotes Viejos?

Ans. Yes, it was, because the new Coyotes are nearer to town.

Quest. Was it called Rincon de Santa Ana?

Ans. No; but it was in the direction of Santa Ana as far as the premises of Yorba; all this country being called Cajon de Santa Ana.

Re-examined in chief.

Quest. What was the general name by which all that tract of country of which you gave possession was called, taking the whole together?

Ans. Coyotes and Santa Ana.

Quest. Was it or was it not known also by the name of San Juan de Cajon de Santa Ana? (Objected to by U. S. att'y.)

Ans. No; I did not hear it called by that name. San Juan is included within this land given to Juan Pacifico.

Quest. Did you ever deliver any papers to any one else concerning said land, of which judicial possession was given, except the prefect Tiburcio Tapia?

Ans. To no other person but the prefecto Tapia.

ANTONIO MACHADO.

Sworn to and subscribed before me this 17th day of October, A. D. 1855.

C. E. CARR,
U. S. Com'r.

Filed Oct. 17th, 1855.

C. E. CARR, *Cl'k.*

Bill of Exceptions.

In the District Court of the United States for the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant, vs. THE UNITED STATES, appellee. } No. 140. Transcript No. 440.

On appeal from U. S. Land Com'rs.

Be it remembered, that on the trial of this cause, the United States, by P. Ord, district attorney, objected to all that part of the evidence of Bernardino Guirado, Bernardo Yorba, Manuel Duarte, and George Hanson, (with a map,) hereinafter set forth, witnesses on the part of the said appellant, Juan Pacifico Ontiveras, taken by deposition before C. E. Carr, U. States Commis'r, on the ground the said evidence was secondary, (there being no sufficient foundation for the introduction of the same,) hearsay, inadmissible and illegal, and which objections were made at the time of taking of said depositions.

The said evidence, so objected to at said times as aforesaid, is fully set forth in the following exhibit A, and made a part of this bill.

No. 140.

Exhibit A.

Part of the deposition of Bernardino Guirado, a witness for Claimant.

Questions by Counsel for Claimant.

Quest. Where did the line now dividing the Coyotes from San Juan Cajon de Santa Ana?

Ans'r. The line, after the settlement of the suit with Leandro, was at the point of the Cienega where Romero has a house, and a little below there is a sycamore tree; from this sycamore to a laguna, in an easterly direction; and the line finally goes into the river Santa Ana.

Quest. Do you know the ranchos that bounded this place, called San Juan Cajon de Santa Ana, at the time possession was given?

Ans. I do; they were on the east, at the mouth of the Cajon Don Bernardo Yorba. It is divided from Santa Ana by the river Santa Ana, on the north the rancho of Gil Ybarra, on the south by the rancho that was José Antonio Yorba's, and on the west by the rancho of Coyotes.

No. 140.

Part of the deposition of Bernardo Yorba, a witness for Claimant.

Questions by Counsel for Claimant.

Question. State by what ranchos this ranch was bounded? (Meaning the rancho claimed by Ontiveras.)

Ans. The Coyotes, Santa Ana, San Antonio, my ranch, and the hills of the Puente. The river of Santa Ana is a boundary.

Quest. Can you now state the boundaries by which judicial possession of said rancho was given? If so, state them.

Ans. Yes, I can. From the old road straight to a sycamore; from the sycamore to a lake; from the lake, along up the bed where the river once ran, to some sycamores, where the residence of Juan Pacifico now is; from thence, along valley of La Brea, to the top or ridge of the hills; and from thence, along the foot of the Puente hills, to where a road goes through a gap to the Puente; and from this gap to the point of beginning.

No. 140.

Part of the deposition of Manuel Duarte, a witness for Claimant.

Questions by Counsel for Claimant.

Quest. Do you know the boundaries of said rancho? If so, how do you know them?

Ans. Yes, I know them, because I measured them; and this was the first time this ranch was founded.

Quest. Describe those boundaries?

Ans. Beginning at the river Santa Ana, and running out to the hills, where there is an oak, and near the valley of the Elders, and which line is contiguous to the property of Bernardo Yorba; from the oak to a stone, which is permanent, and another resting upon it; from the stone to the pillar, which is now fallen; from the pillar to the sycamore tree; from the sycamore tree to the lake; and from there to the river.

Quest. State when the same (meaning judicial possession) was given? * * * * And describe the metes and bounds by which they measured the same.

Ans. * * * * It was measured from the river Santa Ana up adjoining Bernardo Yorba's, out to the oak; from the oak to the pillar; from thence to the sycamore; from thence to the lake; and from thence to the river.

No. 140.

Part of the deposition of George Hanson, a witness for Claimant.

Questions by Counsel for Claimant.

Quest. Have you ever made a survey of said ranch? (Meaning the land called the Cajon de San Juan de Santa Ana.) If so, when, at whose instance; who pointed out the lines to you by which you surveyed the same; did you make a map of said rancho; if yea, produce the same; state generally the result of said survey; the amount of land contained in the area surveyed by you; by what boundaries you surveyed the same; and state generally all you know about the matter?

Ans. I did make a survey of said rancho in the latter part of Sept., 1855, at the instance of Juan Pacifico Ontiveras and his attorney, Judge Scott. The lines were pointed out to me by Manuel Duarte and by Bernardo Yorba, as those which were run when judicial possession was given. I made a map of the same, (witness here produces a map which is marked "C. E. C., U. S. Com'r, No. 1," which map is platted in a scale of 40 chains to the inch.) The map I have here shown is a correct map of the lines which I have run, and which were pointed out to me, as follows: Manuel Duarte pointed out a sycamore, near the river Santa Ana, with some hatchet cuts on it. We measured thence, under the guidance of Manuel Duarte, from station No. 1 to station No. 7, as laid down in the map; and thence, under the guidance of Bernardo Yorba, along what he called the old bed of the river, to station 19, when we struck the river; we followed from this station the meanderings of the river, up to a point where a right line from the oak to the sycamore before mentioned strikes the river. The area embraced within these lines is six square leagues, two thousand eight hundred and sixty-seven hundredth acres.

ISAAC S. K. OGIER,
U. S. Dist. Judge.

The said objections to the said evidence were then overruled by the court, and the said evidence admitted in this cause; to which said

ruling the said United States, by their said attorney, now except, and pray this their bill may be signed and sealed by this court.

ISAAC S. K. OGIER,
[SEAL.] *U. S. Dist. Judge.*

Filed Octo. 18th, 1855. C. E. CARR, *Clerk.*

Affidavit of Claimant.

In the United States District Court in and for the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant, } Case 140.
vs. } Transcript 440.
THE UNITED STATES, appellees.

STATE OF CALIFORNIA:

Juan Pacifico Ontiveras, being duly sworn, deposes and says, that he has not in his possession the petition which he presented for the lands in question in this case, previous to the issuing to him of the title for the same; that said petition has never been in his possession since he presented the same, nor has affiant any knowledge of the whereabouts of said petition.

JUAN PACIFICO ⋈ ONTIVERAS.

Sworn to and subscribed before me, this 3d of December, 1855.
C. E. CARR, *Clerk.*

Filed Dec'r 6th, 1855. C. E. CARR, *Clerk.*

Affidavit of John W. Shore.

In the United States District Court in and for the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant, } Case 140.
vs. } Transcript 440.
THE UNITED STATES, appellees.

STATE OF CALIFORNIA, *ss:*

John W. Shore, being duly sworn, deposeth and saith, that he is county clerk of Los Angeles county, and ex-officio clerk of the district court of the first judicial district, State of California, for Los Angeles, and recorder of said county, and has in his custody all the Spanish and Mexican archives that exist as matters of public record in Los Angeles county; that he has carefully examined all the archives in his office, and that no espediente or petition of the above-named appellant, touch-

ing any of the lands of "San Juan, (un) Cajon de Santa Ana," nor any other espediente of the said appellant exist in his office.

JOHN W. SHORE.

Sworn to and subscribed before me, this 3d day of December, A. D. 1855.

C. E. CARR, *Clerk.*

Filed December 6th, 1855.

C. E. CARR, *Clerk.*

Affidavit of J. R. Scott.

JUAN P. ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellees.

District Court of the United States for the southern dist. of California.

STATE OF CALIFORNIA,
County of Los Angeles.

J. R. Scott, being duly sworn, deposes and says:

That he is attorney for the appellant in the above cause, and that some time in June or July last past, affiant made diligent search in the office of the U. S. surveyor general for California, assisted by T. Evershed, and another clerk, whose name is unknown to affiant, both clerks in said office, for the espediente containing the map or petition referred to in the grant in the above cause; but after diligent search affiant could find no espediente, map or petition, such as described above; and affiant is satisfied and believes, that none such exists, nor any espediente appertaining to the said lands, except an espediente of Patricio Ontiveras, filed in the time of Governor Figueroa, for the lands called Alamitos, situate in said county, and also for the lands in question, filed long before the title to the lands in question bears date.

J. R. SCOTT.

Sworn to and subscribed before me, this 6th Dec'r, 1855.

C. E. CARR, *Cl'k.*

Filed Dec'r 6th, 1855.

C. E. CARR, *Cl'k.*

In the United States District Court in and for the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellees.

Case No. 140.
Transcript 440.

"San Juan, (a) Cajon de Santa Ana."

STATE OF CALIFORNIA, *ss:*

J. Lancaster Brent, being duly sworn, deposeth and saith:

That at the request of J. R. Scott, esq., attorney for Juan Pacifico Ontiveras, in the above cause, he examined the Mexican archives in

the custody of J. C. Hays, United States surveyor general for California, for the purpose of discovering any trace of a petition or espediente of the said Ontiveras, relative to the obtaining a concession of land to the said Ontiveras; he accordingly in October last examined the said archives by consulting their index, and the only espediente of petition he could discover was one promoted or signed by one Ontiveras, whose first name he does not recollect, and did not notice it, owing to the fact that he deemed it, as a matter of course, of the party for whom Mr. Scott is attorney.

This espediente is based upon an application for a grant of a tract of land called the "Alamitas," the same tract now claimed by Abel Stearns, judging from its description and a map contained in the espediente; and just previous to the decree or grant, the petitioner asks that another tract called, deponent believes, the Cajon de Santa Ana, should be included; and the espediente contains either a decree of grant or grant of both tracts, but I do not recollect of seeing anything that showed of its delivery.

The governor first petitioned was Figueroa, but I am not positive whether he was the one who gave the decree, though deponent is inclined to believe he was.

The archives in the surveyor general's office are quite numerous, and those of the Spanish and Mexican eras are well indexed. The index was commenced by Wm. Dalamara, a clerk under Mr. King, predecessor of Mr. Hays, and finished by Mr. Evershed, I believe, under the present surveyor general. Deponent has frequently seen the clerk engaged in preparing it, and otherwise possesses some familiarity with the archives from the nature of his professional business. To a person who understands the use of the index, it would be nearly morally impossible not to discover the existence of an espediente concerning lands during the Mexican era, by inspecting the same.

J. LANCASTER BRENT.

Sworn to and subscribed before me, this 3d day of Dec'r, 1855.

C. E. CARR, *Cl'k.*

Filed Dec'r 6th, 1855.

C. E. CARR, *Cl'k.*

Decree.

In the United States District Court for the southern district of California.

JUAN PACIFICO ONTIVERAS, appellant,
vs.
THE UNITED STATES, appellee. } Case No. 140.

"San Juan (a) Cajon de Santa Ana."

This cause coming on to be heard on appeal from the final decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of